mainline taps, a pig launcher, four 20-inch-diameter block valve assemblies; and a new antenna and radio repeater at the existing Capitol Peak radio site.

The purpose of the proposed facilities would be to supply natural gas to fully operate Duke Energy Grays Harbor LLC's Satsop Combustion Turbine Project in Satsop, Washington. The pipeline would have a design capacity of up to 161,500 dekatherms per day. The electricity produced by the Satsop Combustion Turbine Project would be sold in the wholesale electric market. A portion of the output would be delivered to Energy Northwest, and the balance would be delivered to Bonneville Power Authority to help satisfy current and projected power demand.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: Secretary, Federal Energy Regulatory Commission 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Office of Energy Projects (Gas Branch 2)
- Reference Docket No. CP01–361–000; and
- Mail your comments so that they will be received in Washington, DC on or before April 3, 2002.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website *(www.ferc.gov)* using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5694 Filed 3–8–02; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–415–000]

East Tennessee Natural Gas Company; Notice of Site Visit

March 4, 2002.

Between March 18–20, 2002 the staff will be conducting site visits of the project route for the proposed Patriot Expansion in Wythe and Smyth Counties in Virginia and in Sullivan, Knox, Hamilton, Franklin, and Morgan Counties in Tennessee. Representatives of East Tennessee Natural Gas Company will accompany Commission staff. Anyone interested in participating in the site visits may contact the Commission's Office of External Affairs at (201) 208–1088 for more details and must provide their own transportation.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5695 Filed 3–8–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–118–000]

Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations; Notice of Staff Conference Agenda

March 1, 2002.

As announced in the Notice of Staff Conference issued on February 25, 2002, Commission staff will hold a conference on March 11, 2002 to address the comments and reply comments that were filed in this proceeding. The purpose of this conference is to determine whether and how the proposed tariff condition can be modified to address legitimate concerns that have been raised by commenters while, at the same time, protecting customers against unjust and unreasonable rates that may result from anticompetitive behavior or the exercise of market power. A key question to be considered is whether the proposed tariff condition can be modified to adequately protect customers on an interim basis until such time as the Commission adopts other measures to ensure competitive markets, including standard market design rules (with market-power mitigation rules where appropriate) and the establishment of RTO market monitoring units. At that time, a determination could be made as to whether a tariff condition will continue to be needed.

The conference will start at 9:30 a.m. and adjourn at 1:30 p.m. It is scheduled to be held in the Commission meeting room at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC The conference is open for the public to attend.

An agenda of the conference that includes a list of conference panelists is appended to this notice as Attachment A. In addition, a staff paper that provides an overview of the comments and identifies possible modifications to the tariff condition is appended to this notice as Attachment B. Those who wish to submit comments following the conference may file written comments,

limited to 20 pages in length, by March 22, 2002.

Filing Requirements for Paper and Electronic Filings

Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. Those filing electronically do not need to make a paper filing.

For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426 and should refer to Docket No. EL01–118–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at www.ferc.gov, click on ''E-Filing'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filing is available at 202–208–0258 or by E-mail to efiling@ferc.fed.us. Comments should not be submitted to the E-mail address.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Opportunities for Listening to and Viewing the Conference Offsite and Obtaining a Transcript

The conference will be transcribed. Those interested in obtaining transcripts should contact Ace Federal Reporters at 202–347–3700.

The Capitol Connection will broadcast the conference live via the Internet and by phone. To find out more about The Capitol Connection's Internet and phone bridge, contact David Reininger or Julia Morelli at 703–993–3100 or go to *www.capitolconnection.gmu.edu*.

Live and archived audio of the conference will also available for a fee via National Narrowcast Network. Live audio is available by telephone at 202–966–2211 and by subscription on the Internet at www.hearing.com. The Internet audio will be archived and available for listening after the event is completed. Billing is based on listening time.

Anyone interested in purchasing videotapes of the conference should call VISCOM at 703–715–7999.

Questions about the conference program should be directed to: Saida Shaalan Office of Markets, Tariffs, and Rates Federal Energy Regulatory Commission 888 First Street, NE Washington, DC 20426 202–208–0278 Saida.Shaalan@ferc.fed.us

Linwood A. Watson, Jr.,

Deputy Secretary.

Attachment A

Agenda—Conference on Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations

[Docket No. EL01–118–000]

I. Opening Remarks—9:30 a.m.–10 a.m.

- David Hunger, Economist, Office of Markets, Tariffs and Rates, Division of Rates and Tariffs, West
- Jerome Pederson, Energy Industry Analyst, Office of Markets, Tariffs and Rates, Division of Issue Identification and Resolution Management
- Joyce Kim, Staff Attorney, Office of General Counsel

I. Panel Discussion—10 a.m.–11:30 a.m.

- Steven Cadwallader, Connecticut Department of Public Utilities Control
- Julie Simon, Vice President of Policy, Electric Power Supply Association
- Scott M. Harvey, Director with LECG, LLC
- John C. Hilke, Economist and Electricity Project Coordinator, Bureau of Economics, Federal Trade Commission
- Mark M. Jacobs, Goldman Sachs and Company
- Gerald Norlander, Director, Public Utility Law Project, National Association of State Utility Consumer Advocates
- Robert O'Neil, Counsel for National Rural Electric Cooperative Association

Break 11:30 a.m.–11:45 a.m.

III. Open Discussion (Open to any interested participant)—11:45 a.m.–1:30 p.m.

Attachment B

Staff Paper—Conference on Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations

[Docket No. EL01–118–000]

I. Commission's Proposal in November 20, 2001 Order

In the November 20 Order in this proceeding,[1] the Commission noted that it has become increasingly concerned about the potential that public utilities with market-based rate authorization might, under certain circumstances, exercise market power or engage in anticompetitive behavior that could result in unjust or unreasonableness rates. The Commission proposed to take steps now to minimize the potential for any such market power abuse or anticompetitive behavior to protect customers against possible unjust and unreasonable rates. In particular, the Commission proposed to revise all existing market-based rate tariffs and authorizations to include the following provision: ''As a condition of obtaining and retaining market-based rate authority, the seller is prohibited from engaging in anticompetitive behavior or the exercise of market power. The seller's market-based rate authority is subject to refunds or other remedies as may be appropriate to address any anticompetitive behavior or exercise of market power.''

The Commission stated that anticompetitive behavior or exercises of market power include behavior that raises the market price through physical or economic withholding of supplies. The November 20 Order explains that ''physical withholding'' occurs ''when a supplier fails to offer its output to the market during periods when the market price exceeds the supplier's full incremental costs,'' and ''economic withholding'' occurs ''when a supplier offers output to the market at a price that is above both its full incremental costs and the market price (and thus, the output is not sold).''

The Commission solicited initial and reply comments on its proposal. More than 90 comments (initial and reply) were received. Some commenters argue that the Commission's proposed tariff condition is overly broad or vague and will create uncertainty in the marketplace. Others argue that the condition does not go far enough. An overview of the comments and a list of possible modifications to the tariff condition is provided below.

The purpose of this conference is to determine whether and how the proposed tariff condition could be modified to address legitimate concerns that have been raised by the commenters while, at the same time, satisfying the Commission's concern that customers be protected against unjust and unreasonable rates that may result from anticompetitive behavior or the exercise of market power. A key question to be considered is whether the proposed tariff condition can be modified to adequately protect customers on an interim basis until such time as the Commission adopts other measures to ensure competitive markets, including standard market design rules (with market-power mitigation rules where appropriate) and the establishment of RTO market monitoring units. At that time, a determination could be made as to whether a tariff condition will continue to be needed.

II. Overview of Comments

The November 20 Order proposed a tariff condition prohibiting anticompetitive behavior or the exercise of market power. The November 20 Order highlighted two ways to exercise market power: physical and economic withholding of output. The November 20 Order stated that withholding supplies can also occur when a seller is able to erect barriers to entry that limit or prevent

[1] 97 FERC ¶ 61,220 (2001).

others from offering supplies to the market or that raise the costs of other suppliers. Examples would include denying, delaying, or requiring unreasonable terms, conditions, or rates for natural gas service to a potential electric competitor in bulk power markets. Some commenters argue that the proposed definition of both economic and physical withholding is vague and overly broad. These commenters generally argue that because the definitions do not consider certain physical, institutional and regulatory constraints, suppliers will be subject to penalties and/or refunds in many cases where they were simply making reasonable business decisions, not exercising market power.

A. Economic Withholding

The November 20 Order defined economic withholding as occurring when a supplier offers output to the market at a price that is above both its full incremental costs and the market price (and thus, the output is not sold).

Some commenters claimed these problems with identifying economic withholding:

• Pay-as-bid markets: Much of the market activity takes place in bilateral markets where the supplier is paid its bid. In those markets, competitive suppliers base their bids on the perceived value of their product, not merely the marginal cost of production.

• Energy-limited units: For units that are constrained by the number of hours they can run, such as hydroelectric facilities or plants facing emissions limitations, the opportunity cost of running in a given hour is the foregone profit in another hour. Commenters argue that suppliers must bid in excess of running costs in order to account for the opportunity costs. Under the Order's definition of economic withholding, such bids would be considered to be engaging in economic withholding and subject to refund.

• Start-up and minimum load costs: For units with start-up costs, it may not be profitable for the plant to provide energy for only a few hours when the market price exceeds its incremental costs. If the revenue during a given time period is not large enough to offset the startup costs as well as the variable running costs, then it would not be profitable for a plant to run for that period. The generator may submit bids in excess of marginal cost in order to recover its startup costs.

B. Physical Withholding

The November 20 Order defined physical withholding as occurring when a supplier fails to offer its output to the market during periods when the market price exceeds the supplier's full incremental costs.

Some commenters claimed these problems with identifying physical withholding:

• In the cases of energy limited units, outage risk and operating risks, if the suppliers cannot bid sufficiently high to avoid running all of their capacity (potentially engaging in economical withholding) they will be forced to simply hold back some or all of their output, even when the market price is greater than their full incremental costs.

• A plant operator needs to be able to decide what is the best time to take a plant out of service or run it at less than full capacity for reliability purposes. If the operator faces the risk of having the unit's revenues subject to refund or having its market-based rate authority revoked, it may be forced to operate the plant in a way that reduces its reliability.

C. Market Price

The November 20 Order stated that anticompetitive behavior or exercises of market power include behavior that raises the market price through physical or economic withholding of supplies.

Some commenters claimed these problems with identifying market price:

• Suppliers can sell into many different markets.

• Markets are differentiated across time (*e.g.,* forward vs. spot) and product (*e.g.,* energy vs. reserves).

D. Economic Consequences

Some commenters contend that entry of new electricity generating facilities, and the value of existing plants, may be reduced because of the risk of refunds imposed as a result of the proposed tariff condition. Potential suppliers may be less interested in building new facilities and those that are interested may not be able to obtain financing or would have to borrow at higher interest rates (due to the increased uncertainty), thus deterring entry.

E. Penalty for Prohibited Behavior

In its November 20 Order, the Commission stated:

Should public utility market participants engage in prohibited behavior, their rates will be subject to increased scrutiny by the Commission, and to potential refunds or such other remedies as may be appropriate. This could result in further conditions or restrictions on their market-based rate authority, including, for example, prospective revocation of the market-based rate authority of the seller or any of its affiliates, or conditions precluding the seller from selling at market-based rates to its affiliates.

1. Comments generally in support:

• The refund condition should be broad enough to allow for refunds from all sellers who profit from anticompetitive behavior regardless of whether a particular seller was engaged in the anticompetitive behavior.

• Reasonable penalties or other sanctions in individual cases in which a supplier has exercised market-power may be warranted.

2. Comments generally in opposition:

• The November 20 Order does not explain or provide examples of how a seller with market-based rate authority can be in a position to abuse market power.

• The Commission should rely on existing monitoring plans and deal with alleged abuses on a case-by-case review.

• As written, the November 20 Order could penalize those who have not committed anticompetitive acts.

3. Modifications proposed by commenters:

• The refund condition should apply only to spot market sales; to wholesale sellers possessing market power; or to generation affiliated with vertically-integrated transmission and distribution assets.

• There should be various exemptions such as: Market dysfunction unrelated to seller misconduct; entities which are too small to exercise market power effectively; forward markets including bilateral sales outside the spot market; power marketers that do not own physical assets; transactions into a market with Commission-approved market monitoring and mitigation measures.

• Some commenters propose that a specific time limit for claiming refunds be instituted while others argue that such a time limit will reward violaters who successfully conceal their anticompetitive behavior.

F. Procedural Issues

Due to concerns regarding the impact of the refund condition, commenters make the following recommendations:

1. Administrative concerns:

• Clarify and specify the requirements for filing a pleading seeking to trigger a refund investigation and the burden of proof in such proceedings; adopt a streamlined-resolution process or expedited complaint-review process.

2. Due process concerns:

• Clarify that sellers will be given the opportunity to respond to charges and explain the basis for their actions (*e.g.,* a trial-type hearing).

3. Concerns regarding regulatory risk and transaction finality:

• Investigate on a case-by-case basis and provide the requisite notice.

• Establish a reasonable period of time for filing a complaint, or commencing an investigation, and a reasonable retroactive refund period.

• To avoid the reduction of the market value of non-rate-base generating stations, such as merchant power plants, establish bright-line procedures for facilities' transfers which will preserve their market-based rate authorizations.

III. Possible Modifications to Tariff Condition

A. Modifications to Definitions

Based on comments regarding the definitions of economic withholding and physical withholding, should we modify the proposed definitions? If so, how?

• Should the term ''full incremental cost'' be clarified (*e.g.,* to include opportunity cost)?

• Should the use of the term ''market price'' be clarified, *e.g.,* as to time (forward vs. spot), product (energy vs. reserves) and geographic market?

• Should environmental, operational and reliability factors be taken into account for purposes of determining whether physical withholding has occurred? If so, how?

B. Limit Applicability to Certain Markets/ Market Participants

• Should we exempt sales in markets that are fully competitive with effective market monitoring; exempt all suppliers in an approved RTO market with Commission-approved bid caps?

• Should we exempt power supply agreements of a specified duration or agreements where parties explicitly waive refund obligations; exempt all bilateral

contracts; create safe harbors (rebuttable presumption of legality) for certain transactions, such as, those with markups at a certain level above marginal cost?

• Should we limit the condition to the specific market(s) in which a seller has market-power, and tailor mitigation rules to those firms given their particular circumstances, while exempting from the rules those generators that are unable or unlikely to exercise market power, such as net buyers, and small, single-plant suppliers?

• Should we set an impact threshold for alleged violations?

C. Procedure Modifications/Applicability Based on Timing

• Should we limit the window of refund potential so that transactions would not be subject to refund unless specifically challenged within a particular timeframe; set a sunset date for the refund condition?

• Should we clarify the type of opportunity that sellers will be given to respond to allegations and explain the basis for their actions (e.g., a trial-type hearing)?

D. Other Suggestions

• Should we impose temporary price caps along with reserve capacity requirements until a competitive market structure emerges?

• Should we tailor mitigation measures to be applied to a particular exercise of market power, class of participant, and sector?

[FR Doc. 02–5693 Filed 3–8–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting

March 6, 2002.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 13, 2002, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary. Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

787th—Meeting March 13, 2002, Regular Meeting, 10 a.m.

Administrative Agenda

A–1.
Docket# AD02–1, 000, Agency Administrative Matters

A–2.
Docket# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

A–3.
Docket# AD01–3, 000, California Infrastructure Update

A–4.
Docket# AD02–12, 000, Northeast RTO Update
Other#s RT01–86, 000, Bangor Hydro-Electric Company; RT01–86, 001, Bangor Hydro-Electric Company; RT01–86, 002, Bangor Hydro-Electric Company; RT01–95, 000, New York Independent System Operator Inc.; RT01–95, 001, New York Independent System Operator Inc.; RT01–95, 002, New York Independent System Operator Inc.; RT01–99, 000, Regional Transmission Organizations; RT01–99, 001, Regional Transmission Organizations; RT01–99, 002, Regional Transmission Organizations; RT01–99, 003, Regional Transmission Organizations

Markets, Tariffs and Rates—Electric

E–1.
Docket# RM01–12, 000, Standard Market Design Scoping

E–2.
Docket# ER02–766, 000, Florida Power & Light Company

E–3.
Docket# ER02–637, 000, Pacific Gas and Electric Company
Other#s ER02–637, 001, Pacific Gas and Electric Company

E–4.
Docket# ER02–405, 000, Entergy Services, Inc.
Other#s ER02–405, 001, Entergy Services, Inc.

E–5.
Docket# ER02–338, 000, Portland General Electric Company
Other#s ER02–338, 001, Portland General Electric Company

E–6.
Docket# ER02–818, 000, LG&E Capital Trimble County LLC

E–7.
Docket# ER01–1740, 000, New York Independent System Operator Inc.
Other#s ER01–1520, 000, New York Independent System Operator Inc.

E–8.
Omitted

E–9.
Docket# ER02–4, 000, Pacific Gas & Electric Company

E–10.
Docket# ER02–358, 000, Pacific Gas and Electric Company
Other#s ER01–2998, 000, Pacific Gas and Electric Company

E–11.
Docket# ER02–782, 000, Florida Power & Light Company

E–12.
Docket# EL99–14, 003, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.
Other#s EL99–14, 004, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.

E–13.
Docket# EC02–15, 000, Cinergy Services, Inc., Cinergy Corporation, The Cincinnati Gas & Electric Company, Cinergy Power Investments and PSI Energy, Inc.
Other#s ER02–177, 000, Cinergy Services, Inc., Cinergy Corporation, The Cincinnati Gas & Electric Company, Cinergy Power Investments and PSI Energy, Inc.; ER02–177, 001, Cinergy Services, Inc., Cinergy Corporation, The Cincinnati Gas & Electric Company, Cinergy Power Investments and PSI Energy, Inc.; ER02–177, 002, Cinergy Services, Inc., Cinergy Corporation, The Cincinnati Gas & Electric Company, Cinergy Power Investments and PSI Energy, Inc.; EC02–15, 001, Cinergy Services, Inc., Cinergy Corporation, The Cincinnati Gas & Electric Company, Cinergy Power Investments and PSI Energy, Inc.

E–14.
Docket# EL01–78, 001, LG&E Energy Marketing, Inc. v. Southern Company Services, Inc. and Georgia Transmission Corporation

E–15.
Docket# EL01–65, 001, Californians for Renewable Energy, Inc. v. British Columbia Hydro and Power Authority, Powerex Corporation, Southern Energy Marketing Company (Mirant) and Bonneville Power AdministrationE–16.
Docket# ER02–111, 001, Midwest Independent Transmission System Operator, Inc.

E–17.
Docket# ER02–170, 001, Boston Edison Company

E–18.
Docket# ER02–132, 002, American Transmission Systems, Inc.

E–19.
Docket# EL01–92, 001, Bangor Hydro-Electric Company

E–20.
Docket# ER02–42, 001, GWF Energy